



## City of Wheatland

111 Main Street – Wheatland, California 95692  
Tel (530) 633-2761 – Fax (530) 633-9102

### CITY COUNCIL MEETING STAFF REPORT

Date: October 13, 2009

Agenda Item: 4.2

**Subject:** RD 2103 Request for Release of Funds

**Prepared by:** Stephen L. Wright, City Manager

---

**Recommendation:** Council authorize the immediate release of the balance of the approved grant amount to RD 2103 with the exception of withholding \$200,000 of these funds to be dedicated to the maintenance district formation process.

**Discussion:** Attached for Council consideration is a letter from Dean Webb, President of the RD 2103 Board requesting a release of the City's entire \$2.7 million grant for the Bear River Levee Improvement Project. On April 28, 2009 the Council conditionally granted this release (attached minutes of that meeting) including three conditions for that release – receipt of \$2.6 million in State funding; incremental release of City funds on an as needed basis, and; retention of \$200,000 for use on a maintenance district election process.

On September 16, 2009 the City did release \$750,000 to the RD as the first incremental draw on these funds. The Board has now learned that the final \$3.4 million of State funds, although awarded, will likely not be released to the RD until after the first of the year. Since the RD has awarded the final construction phase for the project, that delay in funding will put them in a negative cash flow situation necessitating this request for an immediate release of City funds. Even with the City funds they will remain in a negative cash position however they have reached an agreement with their contractors to carry the balance of the contract costs at a 6% interest rate until the State funds are received. Staff requested Board consideration of a similar condition for the release of the City funds with only a 3% interest rate but the Board denied that request (see attached email from Tom Engler).

Technically the conditions of the Grant agreement have been met. The RD has received the \$2.6 million from the State which was a condition of the City's grant

agreement and although not incremental through December, the City funds are needed ASAP.

**Alternatives:** The Council could grant the RD request; incrementally release the remaining funds through December; and/or withhold the final \$200,000 for the assessment district election process with either option.

**Fiscal Impact:** There will be a minor interest income loss with an early release of these funds. Currently the LAIF interest rate is under 1%.

## Reclamation District 2103

P.O. Box 208  
Wheatland, CA, 95692  
(530) 633-4072

September 17, 2009

Steve Wright  
City of Wheatland  
313 Main Street  
P.O. Box 395  
Wheatland, CA 95692

**Subject: Revised Request for Funding for the Bear River Project**

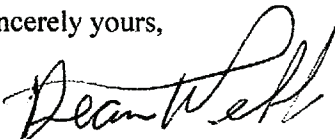
Dear Mr. Wright:

Please accept this letter as a revision to the letter of August 20, 2009 in which the District requested the \$2,700,000 of funding in four payments through December. Since that request was made, the District has learned that the State funding is not likely to arrive until November, at the earliest. As a result, there will be a temporary shortfall of funding and the contractual obligations of the project will be delayed until the State funding is received. The District has made arrangements with the contractor and all project consultants to continue working towards project completion at the risk of payment for that work being delayed until State funding is received. A Notice to Proceed was issued on September 11, 2009 for all remaining construction and work began immediately for completion in November, 2009. Therefore, in order for the District to make payment on invoices expected to be received in October, this request is for the City to disburse the balance of the City's funding as soon as possible, but no later than October 15, 2009.

Per the conditions of your April 29, 2009 letter, the District did receive and has expended the \$2.666 million from the State, has requested payments from the City in increments of greater than \$500,000, and has timed those payments to allow the City to accrue as much interest as possible. However, condition (C) requested that the District retain an amount needed, up to \$200,000, to be used towards formation of an assessment district for operation and maintenance of the certified levee. At this time, there remains approximately \$800,000 of project contingency. If this money is not required to complete the project after State funding is received, construction is completed, and work towards certification is funded, the District will utilize all remaining funds towards formation of the assessment district.

If you have any questions or need additional information to support this request, please contact our District Project Manager, Tom Engler, with MBK Engineers at 916/456-4400.

Sincerely yours,



Dean Webb, President  
Reclamation District 2103

**APRIL 28, 2009 MINUTES  
REGULAR WHEATLAND CITY COUNCIL MEETING  
WHEATLAND COMMUNITY CENTER, 101 C STREET,  
WHEATLAND, CA  
6:00 – 6:30 p.m.**

**COUNCIL MEMBERS PRESENT:** Coe, Elphick, Pendergraph, West  
Absent - McIntosh

**OTHER OFFICIALS PRESENT:** T. Raney, Community Development Director  
R. Verburg, Fire Chief  
M. McCrary, Police Chief

**PLEDGE OF ALLEGIANCE:**

Council member J. Pendergraph led the pledge of allegiance.

**PUBLIC COMMENT**

None.

**CONSENT CALENDAR**

It was moved by Council member J. Pendergraph, seconded by R. West to approve **minutes of the regular City Council meeting held on April 14, 2009 and borrowing of \$300,337.69 by the Construction Fund (104.010) from the Sewer Impact Fee Fund (121.000) to provide adequate funding of the Highway 65/Main Street Traffic Signal project that was accepted by the City Council on March 24, 2009.** Vote called – AYES: All. Motion carried.

**REGULAR CALENDAR**

1) T. Raney presented discussion of RD 2103 Grant Extension and authorization letter. Raney explained the original Grant Agreement dated April 8, 2008 provides in Section 7.1 "...for all grant fund payment requests must be submitted and paid by the City, by June 30, 2009, unless extended by mutual agreement of the parties." Because of project delays due to delayed State funding this agreement is proposed to be extended for another 6 months. Amendment No. 1 was prepared by the City Attorney for this purpose. Raney added that the letter from Dean Webb requests the City's distribution of the \$2.7 million. Several issues of consideration need to be evaluated prior to releasing these funds to assure that Wheatland citizens will be receiving the full benefit of these funds. The draft letter proposes conditions after which these funds would be released. There are three conditions proposed.

First, it is critical that the next phase of work to be completed include at least \$4.567 million worth of work (per Option 2 in the RD staff report dated April 16, 2009) so that at least a significant portion of the levee can be completed. That work together with an assessment district formed for the maintenance of that improvement project would allow for a certified levee, thus relieving a significant number of Wheatland residents from the requirement of purchasing flood insurance. To do this work, in addition to needing the City's \$2.7 million, the RD also needs State funding in the amount of \$2.666 million. The RD has an executed agreement with the State for these funds but the receipt of these funds is now over 2 months overdue with no receipt date guaranteed (4/23 email from Tom Engler). If for some reason the State defaults on their agreement (thus requiring litigation for recovery) the City's funds

could be expended without the project getting to a point where a certified levee could be achieved. For this reason the proposed letter provides that City funding would be released after the RD confirms actual receipt of the State \$2.666 million.

Second, rather than distributing the City funds in a lump sum, it is proposed that the City funds be distributed through an as needed "draw" process in \$500,000 (or more) increments as actual work progresses. That would allow these funds to remain in the City's possession earning interest until actually needed.

Third, it is critical that in addition to completing the construction work on the levee, the RD must have an assessment district funding source in place to provide ongoing maintenance for these improvements. Only with the levee improvements and the assessment district will a levee LOMR certification be achieved. The current estimate of the cost of the engineering work, public information efforts and actual election costs total just under \$200,000. There may be some landowner contributions and RD contributions (\$13,000) to this effort but as of the writing of this staff report only the RD contribution is assured. It is proposed that the City condition up to \$200,000 of this grant to be dedicated to the assessment district effort to assure its completion if it is legally allowable. Also the City would request that the costs of the preparation of this assessment district work be calculated into the actual assessment formulas so that any of the funders of this work be reimbursed for these costs as soon as possible after the assessment district is in place.

It was moved by Council member D. Coe, seconded by R. West to **authorize the City Manager to execute Amendment No. 1 to the City of Wheatland – RD 2103 Grant Agreement and authorize the City Manager to sign the attached draft letter to RD 2103 detailing when funds will be released.** Vote called – AYES: All. Motion carried.

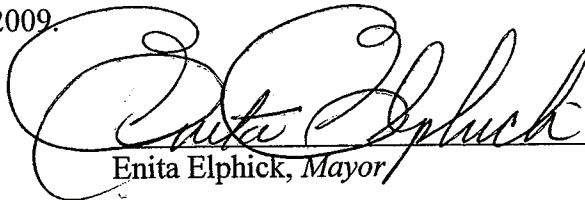
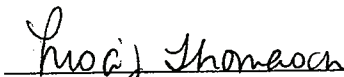
## REPORTS

- 1) J. Pendergraph reported that the FRAQMD will be moving.
- 2) D. Coe and R. West reported on the YSEDC meeting with discussion related to the Beale EUL.

## ADJOURN

There being no further business, Mayor Elphick adjourned the meeting at 6:30 p.m.

Minutes approve and adopted this May 26, 2009.

  
Enita Elphick, Mayor  
Lisa J. Thomason, CMC  
City Clerk



# City of Wheatland

111 C. Street

Wheatland, California

95692

TELEPHONE (530) 633-2761

FAX (530) 633-9102

April 29, 2009

Mr. Dean Webb, President  
Reclamation District 2103  
P.O. Box 208  
Wheatland, CA 95692

Subject: Response to Your Request for Grant Funding

Dear Mr. Webb,

Thank you for your letter of April 22, 2009 requesting City disbursement of \$2,700,000 pursuant to the City of Wheatland – RD 2103 Grant Agreement dated April 8, 2008. The Wheatland City Council has considered this request at their meeting of April 28, 2009 and took the following two actions to allow for the implementation of this request.

First, since there is a possibility that all of the City funds will not be disbursed to the RD before the deadline in the current agreement, the Council approved the attached Amendment No. 1 to that agreement extending the project completion date from June 30, 2009 to December 31, 2009. Please have your Board consider approving this amendment.

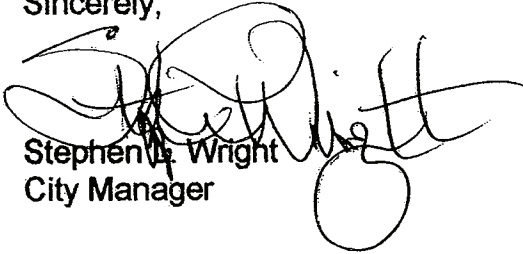
Second, the Council is concerned that the expenditure of the City's \$2,700,000 needs to actually result in the completion of all or a significant portion of a certified levee protecting a large number of residences in this community. Three conditions as follows will allow for the release of these funds:

- A.) That the RD provide the City evidence that the RD has received the \$2.6 million State payment that is currently due and payable.
- B.) That the RD only draw from the City's \$2.7 million in \$500,000+ increments on an as needed basis so that the City can retain the remaining balance to accrue interest income for as long as possible.
- C.) That, if legally possible, the RD retain an amount needed up to \$200,000 of the \$2.7 million to assure that the entire assessment district formation process can be accomplished up to and including the assessment district election itself. Also that the assessment district

engineer be directed to include repayment of these funds from the district as soon as possible assuming a successful election is achieved.

The City looks forward to working with RD 2103 to assure that this project can be successfully completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Wright", written over the printed name and title.

Stephen L. Wright  
City Manager